

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Matthew DeFinis

Date application filed with the Town Clerk: November 28, 2007

Nature of request: A Special Permit to operate a taxi service under Section 5.013 of the Zoning Bylaw

Address: Apartment #258 Puffton Village, 1040 North Pleasant Street, (Map 5C, Parcel 57, R-N Zoning District)

Legal notice: Published on December 5 and 12, 2007 in the Daily Hampshire Gazette and sent to abutters on December 4, 2007

Board members: Thomas Simpson, Hilda Greenbaum and Jane Ashby

Submissions: The petitioner submitted a Management Plan, a site plan of Puffton Village IV with the location of his apartment, and a floor plan of his apartment.

The Planning Department submitted a memo concerning the application, and a list of the Special Permits from the ZBA that are associated with Puffton Village, permits which mainly converted office and storage space to more apartments – ZBA FY1967-2, FY82-28, FY83-6, FY90-06, FY95-43 and FY98-23.

Site Visit: December 18, 2007

The Board met the applicant at the site. They observed the following:

- The location of the applicant's apartment, which is at the most distant section from North Pleasant Street in the apartment complex;
- The parking area next to the apartment building that is available for the applicant's use;
- The location of the proposed office space for the business within the applicant's apartment.

Public Hearing: December 20, 2007

The petitioner gave the following information at the hearing:

- He would like a Special Permit to operate a "Designated Driver" or taxi service under Section 5.013 of the Zoning Bylaw, home occupation;
- He would operate the service from an office in his apartment;
- The business would be a designated driver's service for students;
- The office equipment would consist of a telephone, computer and desk only;
- There would be no traffic to the apartment, foot or automobile, associated with the business;
- His partner, Will Mines, would co-own the business and drive his van as well;
- If necessary, they may hire other employees to help drive;
- The drivers other than the applicant can park their own vehicles at Puffton Village during the day, but cannot park overnight;
- Every tenant of Puffton is allocated one parking spot, so the co-owner and other employees will need

to find space outside of Puffton for their vehicles; the “yellow” lot near the football field could provide the additional parking, if needed;

- His vehicle is not metered; the fee will be based on distance, plus an extra fee for unusual destinations;
- There will be no two-way radios, only cell phones;
- The procedure will be that the person needing a ride will first call the office, the dispatcher will call the van driver, the driver will pick up the person and deliver him/her to the destination;
- If more than one person needs a ride, there will be an extra charge per person;
- There will be magnetic signs on the side of the vehicle and a light on top of the vehicle;
- The hours of operation are proposed for 9 PM to 2 AM on Monday through Thursday, and 9 PM to 3 AM on Friday and Saturday.

Ms. Greenbaum asked if the applicant would be living in the same location after the end of the academic year. The applicant said that he would renew the lease for one year after this academic year.

Ms. Greenbaum asked if a passenger wanted to go to the airport, would the business do that sort of fare. Mr. DeFinis said that they would, depending on the time of day and how busy the service is. The business will mainly focus on a service to students returning home from the bars or a party on the weekends.

The Board suggested that the applicant ask for the outer limits for hours of operation, so that the business can be more flexible if needed. The applicant said that he will ask for hours of operation to be 9PM to 3AM six days per week. He and his partner are still students and need to attend classes during the daytime.

Mr. Simpson asked about repair of vehicles. The applicant said that he takes his vehicle to North Amherst Motors for repairs. He will perform no service or repair to his vehicle on site.

Ms. Ashby asked if the applicant has a license to operate a taxi. Mr. DeFinis replied that he is still working on it. The Select Board will issue a license only after he obtains a Special Permit from the ZBA. Also, he's not sure whether it will be a taxi or a livery license.

Ms. Weeks, Building Commissioner, asked what the maximum number of vehicles might be for the business. The applicant said that eventually there may be up to 5 vehicles involved. The business promises a pickup within 20 minutes, so they may need more than one or two vehicles if the service becomes popular.

Mr. Simpson noted that the number of vehicles for the service is not relevant for zoning, as long as the vehicles do not park at the site. The number of vehicles may be important for the licensing, however.

The Board noted that the signs for the vehicles will have to come before them at a public meeting prior to starting the business.

Ms. Greenbaum made a motion to close the evidentiary portion of the hearing. Ms. Ashby seconded the motion, and the vote was unanimous to close the evidentiary portion of the hearing.

Public Meeting:

Mr. Simpson asked the other Board members whether they were in favor of the concept of the proposal. All members supported the proposal, so the Board spent the public meeting discussing findings required and conditions if a Special Permit were to be approved.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because it will be a home business with no outside evidence of the business. In addition, the property manager of Puffton Village has submitted a letter stating that the business can be located at the apartment complex. Permission from the apartment complex is one of the conditions of this permit.

10.382, 10.383 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because only the applicant's vehicles involved in the business will be parked at the site. All other vehicles associated with the business must park elsewhere, as required as one of the conditions of the Special Permit.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because equipment associated with the home business is minimal – a computer, telephone and a vehicle.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because only one vehicle, the applicant's, will be parked at the site. The only signage associated with the business will be on the vehicle, and the top light will be removed when parked at Puffton Village.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because the light on the vehicle will be removed when parked at the apartment complex.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. A "designated driver" type of service could be a benefit to the students who frequent the bars in Amherst.

Public Meeting – Zoning Board Decision

Ms. Greenbaum made a motion to APPROVE the proposal for a taxi service. Ms. Ashby seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit to Matthew DeFinis to operate a taxi service under Section 5.013 of the Zoning Bylaw located at apartment #258 Puffton Village, 1040 North Pleasant Street, (Map 5C, Parcel 57, R-N Zoning District), with conditions.

TOMAS SIMPSON

HILDA GREENBAUM

JANE ASHBY

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Matthew DeFinis to operate a taxi service under Section 5.013 of the Zoning Bylaw located at apartment #258 Puffton Village, 1040 North Pleasant Street, (Map 5C, Parcel 57, R-N Zoning District), subject to the following conditions:

1. No more than two employees including the owner/operator shall be on site at any one time.
2. No more than one vehicle displaying a sign for the business shall be on site at any one time.
3. Any lighted sign on the vehicle shall be lit only when not on site.
4. No patrons of the business shall come to the site to originate a ride, nor shall any patron trips end at the site unless the patron resides at Puffton Village.
5. No repairs to the vehicles shall be made on site.
6. No communication equipment other than a telephone, a computer and other internal equipment associated with the business shall be kept on site. No exterior radio antennas or other communications equipment shall be installed or used on-site in association with the business.
7. The hours of operation shall be 9 PM to 3 AM six days per week. Prior to any change in the hours of operation, the applicant shall come back before the Board at a public meeting to revise the Management Plan.
8. A letter from the office manager of Puffton Village stating that he is aware and approves of the taxi business shall be notarized and submitted to the Board and the Building Commissioner prior to beginning the operation of the business.
9. Copy of the license obtained from the Select Board shall be submitted to the Zoning Board and Building Commissioner for the file.
10. The design of the vehicle signs, including the dimensions, percent coverage of the side doors, color, and design of top light shall be submitted to the Board for approval at a public meeting prior to issuance of the business license.
11. The business shall be managed according to the revised Management Plan approved by the Board at a public meeting on December 20, 2007 and on file with the Zoning Board of Appeals, Planning Department.
12. This permit shall expire in two years, or upon change of location of the office or ownership of the business.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE

